

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.622(j),)	MB Docket No. 22-114
Table of Allotments, Television Broadcast)	RM-11920
Stations (Bozeman, Montana))	
)	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: May 17, 2022

Released: May 17, 2022

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking¹ issued in response to a Petition for Rulemaking filed by Scripps Broadcasting Holdings LLC (Petitioner), the licensee of television station KBZK (Station), channel 13, Bozeman, Montana. The Petitioner has requested the substitution of UHF channel 27 for VHF channel 13 in the Table of Allotments. The Petitioner filed comments in support of the petition, as required by the Commission's rules,² reaffirming its commitment to apply for channel 27. No other comments were received.

2. We believe the public interest would be served by substituting channel 27 for channel 13 at Bozeman, Montana. According to the Petitioner, it has received many complaints from viewers unable to receive a reliable signal on VHF channel 13, and the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service.³ The proposed channel 27 contour would continue to reach virtually all of the population within the Station's current service area and an analysis using the Commission's *TVStudy* software tool indicates that KBZK's move from channel 13 to channel 27 is predicted to create a small area where 675 persons will lose service.⁴ The loss area, however, is partially overlapped by the noise limited contour of Scripps' owned television station KXLF-TV, Butte, Montana, which, like KBZK, is a CBS network affiliate.⁵ Taking KXLF-TV into consideration reduces the number who are predicted to lose CBS network service to less

¹ *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Bozeman, Montana)*, MB Docket No. 22-114, Notice of Proposed Rulemaking, DA 22-248 (rel. Mar. 10, 2022) (*NPRM*).

² 47 CFR §§ 1.415, 1.419; *see also Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

³ *NPRM* at para. 2.

⁴ *Id.*

⁵ The Petitioner has noted that the instant channel change has been submitted contemporaneously with a channel change request filed by Scripps for KXLF-TV, Butte, Montana. *See* LMS File No. 0000177550; *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Butte, Montana)*, MB Docket No. 22-115, Notice of Proposed Rulemaking, DA 22-249 (rel. March 10, 2022). Like KBZK, KXLF-TV is also a CBS affiliate. According to Scripps, the loss areas created by the proposed KBZK channel change is partially covered by the KXLF-TV contour. Because the KBZK loss area is so sparsely populated, the number of persons losing CBS service remains the same whether taking into account the current or proposed KXLF-TV noise limited contour. *NPRM* at n.1.

than 500 persons, a number which the Commission has found to be *de minimis*.⁶ In addition, viewers in the loss area would continue to have access to other major network programming.⁷

3. As proposed, channel 27 can be substituted for channel 13 at Bozeman, Montana, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules,⁸ at coordinates 45° 38' 15.1" N and 111° 16' 07.0" W. In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:⁹

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Bozeman, Montana	27	850	222.5	120,718

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.¹⁰ An expedited effective date is necessary in this case to ensure that KBZK can operate with improved service to its viewers as quickly as possible.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b) and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal Register, the Table of Allotments, section 73.622(j) of the Commission's rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Bozeman, Montana	*8, 27

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Scripps Broadcasting Holdings LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 27 in lieu of channel 13.

7. **IT IS FURTHER ORDERED**, That pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

8. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 22-114 and RM-11920 **SHALL BE TERMINATED** and its docket closed.

⁶ See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that loss of network service to less than 500 persons is *de minimis*). A Commission analysis found this would result in a loss to 476 persons. *NPRM* at n.7.

⁷ The loss area is partially overlapped by the noise limited contours of KTVM-TV (NBC) and KWB (ABC/FOX), Butte, Montana; and KTVH-DT (NBC), Helena, Montana. Thus, viewers in the loss area would continue to have access to other major network programming. *Id.*

⁸ 47 CFR § 73.625(a).

⁹ 47 CFR §§ 73.616, 73.623.

¹⁰ 5 U.S.C. § 553(d)(3).

9. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau